

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION

RICHARD R. McCULLERS,

Plaintiff,

v.

Civil Action File No:

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CHEETAH TRANSPORTATION,  
LLC; TRANSPORT INDUSTRIES,  
LP; TRANSPORT INDUSTRIES  
HOLDINGS, LP; DON W. GRANT,  
JR.; LIBERTY MUTUAL FIRE  
INSURANCE COMPANY;  
GENERAL STAR INDEMNITY  
COMPANY; NATIONAL UNION  
FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA; AMERICAN  
INTERNATIONAL INSURANCE  
COMPANY; LEXINGTON  
INSURANCE COMPANY; and  
FIREMAN'S FUND INSURANCE  
COMPANY,

Defendant(s).

**NOTICE OF REMOVAL**

COMES NOW Donald W. Grant; Cheetah Transportation, LLC; Transport Industries, LP; Transport Industries Holdings, LP; and Liberty Mutual Insurance Company ("Petitioners"), Defendants in the above-styled action, and petition for

removal of the action herein from the Superior Court of Walton County, Georgia, to the United States District Court for the Middle District of Georgia, Athens Division and respectfully show the Court the following:

1.

Petitioners are Defendants in a civil action brought in the Superior Court of Walton County, Georgia, styled *Richard McCullers v. Cheetah Transportation, LLC; Transport Industries, LP; Transport Industries Holdings, LP; Don W. Grant, Jr.; Liberty Mutual Fire Insurance Company; General Star Indemnity Company; National Union Fire Insurance Company of Pittsburgh, PA; American International Insurance Company; Lexington Insurance Company; and Fireman's Fund Insurance Company*, Civil Action File No. 07-3346-4.

Attached as Exhibit "A" are copies of all process, pleadings, and orders received by counsel for Petitioners in such action. Petitioners will file their Answer within the time permitted by Federal Rule of Civil Procedure 81(c).

2.

This Notice of Removal is filed within thirty days of service upon any defendants. The underlying action was filed in the Walton County Superior Court on November 13, 2007. Defendants were served no earlier than November 19, 2007.

3.

There is diversity of citizenship among the parties. This is a controversy between Plaintiff McCullers, a resident of Walton County, Georgia and Defendants Donald Grant; Cheetah Transportation; Transport Industries, LP; Transport Industries Holdings, LP; Liberty Mutual Insurance Co.; General Star Indemnity Company; National Union Fire Insurance Company of Pittsburgh, PA; American International Insurance Company; Lexington Insurance Company; and Fireman's Fund Insurance Company.

Mr. Grant does not reside in Georgia. The other defendants are neither incorporated in Georgia, nor are their principal places of business located in Georgia.

4.

The matter in controversy exceeds the sum or value of Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs. Plaintiff's Complaint alleges that Defendants were negligent and/or are liable to him for the wrongful death of his spouse in a traffic accident. Additionally, the complaint alleges over \$8,000.00 in property damages and requests punitive damages and costs of litigation related to the handling of his claim. This reasonably supports an amount in controversy in excess of \$75,000.

5.

This is a civil action brought in the state court for which this United States District Court has original jurisdiction due to diversity of citizenship, as well as the amount in controversy, under Section 1332 of Title 28 of the United States Code.

6.

Defendant General Star Indemnity Company (“General Star”) consents to this removal. A copy of General Star’s Consent to Removal is attached as Exhibit B.

7.

Defendants National Union Fire Insurance Company of Pittsburgh, PA (“National Union”) and American International Insurance Company (“AIIC”) consent to this removal. A copy of the Consent to Removal for those entities is attached as Exhibit C.

8.

Defendant Lexington Insurance Company (“Lexington”) consents to this removal. A copy of Lexington’s Consent to Removal is attached as Exhibit D.

9.

Defendant Fireman’s Fund Insurance Company consents to this removal through its adjuster Mr. James Shaw. A copy of Fireman’s Fund’s Consent to

Removal is attached as Exhibit E.

10.

Petitioners will file promptly a copy of this notice with the clerk of the Superior Court of Walton County, State of Georgia as required by 28 U.S.C. § 1446(d).

WHEREFORE, Petitioners pray that this petition be filed, and that said action be removed to and proceed in this Court, and that there be no further proceedings in said case in the Superior Court of Walton County, Georgia.

The undersigned has read this Notice of Removal, and to the best of his knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact, is warranted by existing law, and is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

This 17<sup>th</sup> day of December, 2007.

Respectfully submitted,

s/Stevan A. Miller

Stevan A. Miller  
Georgia Bar No. 508375

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PITTSBURGH, PA; AMERICAN  
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COMPANY; LEXINGTON  
INSURANCE COMPANY; and  
FIREMAN'S FUND INSURANCE  
COMPANY,

Defendant(s).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing Notice of Removal to Federal Court upon all parties to this matter by depositing a true and correct copy of same in the U.S. Mail, proper postage

prepaid, addressed to counsel of record as follows:

Michael G. Kam, Esquire  
Randy J. Ebersbach, Esquire  
Emily C. Gross, Esquire  
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Mr. James M. Shaw  
Fireman's Fund Ins. Co.  
4601 DTC Blvd.  
Denver, CO 80237

This 17<sup>th</sup> day of December, 2007.

s/Stevan A. Miller

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Georgia Bar No. 508375

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